

AN ACT

ENTITLED, An Act to revise certain provisions related to exemptions from licensure for nonresidential mortgage loans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 54-14-13 be amended to read:

54-14-13. No person may act as a mortgage lender, mortgage brokerage, mortgage broker, or mortgage loan originator in this state or use the title, mortgage lender, mortgage brokerage, mortgage broker, or mortgage loan originator with respect to any property located in South Dakota without first obtaining and maintaining a license according to the requirements of this chapter. Each person shall be licensed or registered, and maintain a unique identifier through the nationwide mortgage licensing system and registry.

The requirements of this chapter, except for the provisions of chapter 10-43 as referenced in § 54-14-30, do not apply to any person who, on, before, or after the effective date of this Act, originates, sells, or services five or fewer nonresidential mortgage loans in a twelve-month period as long as the total amount of the loans outstanding does not exceed four million dollars. The exemption under this section applies jointly to every entity in which a person has an equity interest, whether the loan or loans are made by that person or through an entity in which the person holds an equity interest.

Any person exempted by the provisions of this section shall report to the division annually, no later than December thirty-first of 2017, and every subsequent year for any year in which nonresidential mortgage loans are originated, sold, or serviced. The annual report shall contain the name and address of the person who originated, sold, or serviced nonresidential mortgage loans, the number of nonresidential mortgage loans originated, sold, or serviced in the preceding calendar year, and the total balance of all nonresidential mortgage loans originated, sold, or serviced.

Section 2. That § 54-14-20.1 be amended to read:

54-14-20.1. The following are exempt from the requirement of obtaining a mortgage loan originator license:

- (1) Any individual who offers or negotiates terms of a mortgage loan with or on behalf of an immediate family member of the individual;
- (2) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence; or
- (3) Any individual who, on, before, or after the effective date of this Act, offers or negotiates terms of five or fewer nonresidential mortgage loans in a twelve-month period as long as the total amount of the loans outstanding does not exceed four million dollars.

Section 3. That chapter 54-4 be amended by adding a NEW SECTION to read:

Any person who, on, before, or after the effective date of this Act, originates, sells, services, or acquires five or fewer loans in a twelve-month period is exempt from this chapter, except for the provisions of chapter 10-43 as referenced in § 54-4-54, as long as the total amount of the loans outstanding does not exceed four million dollars. The exemption under this section applies jointly to every entity in which a person has an equity interest, whether the loan or loans are made by that person or through an entity in which the person holds an equity interest.

Any person exempted by the provisions of this section shall report to the division annually, no later than December thirty-first of 2017, and every subsequent year for any year in which loans are originated, sold, serviced, or acquired. The annual report shall contain the name and address of the person who originated, sold, serviced, or acquired loans, the number of loans originated, sold, serviced, or acquired in the preceding calendar year, and the total balance of all loans originated, sold, serviced, or acquired.

Section 4. That chapter 54-4 be amended by adding a NEW SECTION to read:

The exemptions under this chapter do not apply to any debt-collection tactic prohibited in § 54-4-

77.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1179

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1179
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State